

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
SARAH J. HEFFLEY, JUDGE

DIVISION II

CA 07-723

February 20, 2008

GRAYSON W. ANDERSON
APPELLANT

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NOS. F412038 & F412039]

V.

ENTERGY ARKANSAS, INC.
APPELLEE

AFFIRMED

Appellant, Grayson Anderson, appeals from a decision by the Workers' Compensation Commission (Commission) finding that he failed to establish the elements necessary to prove a compensable injury. On appeal, he argues that the Commission's decision is not supported by substantial evidence because the testimony of both appellant and his doctor, Richard Peek, established the occurrence of compensable injuries on March 31, 2004, and August 26, 2004. We affirm.

When reviewing a decision of the Commission, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the findings of the Commission and affirm that decision if it is supported by substantial evidence. *Jones v. Wal-*

Mart Stores, Inc., 100 Ark. App. 17, ___ S.W.3d ___ (2007). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Id.* The issue is not whether this court might have reached a different result from the Commission; the Commission's decision will not be reversed unless it is clear that fair-minded persons could not have reached the same conclusions if presented with the same facts. *Stutzman v. Baxter Healthcare Corp.*, 99 Ark. App. 19, ___ S.W.3d ___ (2007). Where the Commission denies a claim because of the claimant's failure to meet his burden of proof, the substantial-evidence standard of review requires that we affirm if the Commission's decision displays a substantial basis for the denial of relief. *Long v. Wal-Mart Stores, Inc.*, 98 Ark. App. 70, ___ S.W.3d ___ (2007). Questions concerning the credibility of witnesses and the weight to be given to their testimony are within the exclusive province of the Commission. *Id.*

Appellant worked as a lineman trainee at Entergy Arkansas, Inc. He testified that on March 31, 2004, while descending a pole during a training session, he experienced a severe pain in his back that shot down his right leg. Appellant testified that he immediately told one of his instructors and did not climb any more poles that day. Later that night, appellant sought medical treatment at the emergency room and was given pain medication. Appellant returned to work the next day and informed his supervisor that he was unable to work.

Appellant continued to seek medical treatment and was referred to Dr. Peek on April 5, 2004. Dr. Peek ordered an MRI, which was performed on April 12, 2004, and showed a disc bulge at L5-S1. Dr. Peek treated appellant by providing medication, epidural

injections, and physical therapy. Appellant returned to work in August 2004, and he testified that on August 26, 2004, he again suffered an injury while descending a pole in training. Appellant testified that he immediately reported this injury to his supervisor. Appellant again sought medical treatment, and an MRI performed on September 3, 2004, showed that the herniation at L5-S1 was impinging on the nerve root. Dr. Peek testified that appellant suffered a herniated disc on March 31, 2004, and after his second injury on August 26, 2004, appellant's herniation was larger and impinging on the nerve root. Appellant was terminated from Entergy on approximately September 1 for excessive absences, and he underwent a microdiscectomy procedure on September 8.

Medical records presented by Entergy established that appellant had a history of back, leg, and hip pain starting in the fall of 2003. Appellant began working for Entergy on January 5, 2004. He sought medical treatment for pain in his back on January 12, 2004, and January 28, 2004, and an MRI performed on February 9, 2004, showed signs of degenerative disc disease and a disc protrusion at the L5-S1 level. The MRI report from April 12, 2004, referenced this February MRI and noted that there was "basically no change from the prior study." The medical history given at Dr. Peek's office on April 5, 2004, noted that appellant had been experiencing pain in his back, right buttock, and right leg since October 2003, and that appellant denied any injury or precipitating event to explain the pain. During his testimony, Dr. Peek acknowledged that appellant had prior back problems and admitted that the April 12, 2004 MRI indicated there had been no change in appellant's spine since the February 9, 2004 MRI.

In addition, all of appellant's supervisors and instructors testified and denied that they were informed of any work-related injury on either March 31, 2004, or August 26, 2004. Specifically, Kenny Mitchell, one of appellant's instructors, testified that on April 1, 2004, appellant gave him a doctor's note asking that appellant be released from climbing for three days, and appellant admitted he had back problems before beginning his employment with Entergy but did not disclose these problems because he was afraid he would lose his job. Cheryl Sibley, appellant's supervisor, also testified that while appellant did notify her of his trip to the emergency room on March 31, he did not report a work-related accident or injury and instead told her that he had been going to a doctor for his back for two or three months.

Appellant asserts that because he presented "credible and consistent" testimony regarding his injuries, corroborated by the testimony of Dr. Peek, the Commission's decision is not supported by substantial evidence. However, the Commission is not required to believe the testimony of the claimant or any other witness, but may accept and translate into findings of fact only those portions of the testimony that it deems worthy of belief. *Bray v. Int'l Wire Group*, 95 Ark. App. 206, 235 S.W.3d 548 (2006). Further, the Commission has the authority to accept or reject medical opinions, and its resolution of the medical evidence has the force and effect of a jury verdict. *Id.* We are foreclosed from determining the credibility and weight to be accorded to each witness's testimony. *Long, supra*. Accordingly, we find that there is substantial evidence to support the Commission's decision, and we affirm.

Affirmed.

GLADWIN and ROBBINS, JJ., agree.